

Date of Hearing: April 23, 2019

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 48 (O'Donnell) – As Amended April 11, 2019

**SUBJECT:** Education finance: school facilities: Kindergarten-Community Colleges Public Education Facilities Bond Acts of 2020 and 2022

**[Note: This bill was doubled referred to the Assembly Education Committee and has been heard by that Committee as it relates to issues under its jurisdiction.]**

**SUMMARY:** Places state general obligation bond measures of unspecified amounts on the statewide 2020 primary and 2022 general elections to fund kindergarten through community college facilities (K-14), to be operative only if approved by voters at those statewide elections. Specifically, **this bill, as proposed to be amended:**

- 1) Enacts the Kindergarten-Community College Public Education Facilities Bond Act of 2020 and the Kindergarten-Community College Public Education Facilities Bond Act of 2022. For both measures, neither the total amount of bonds nor the amounts for K-12 and for community colleges, are unspecified.
- 2) Stipulates that these general obligation bonds constitute a binding obligation of the State of California, and pledges the State's full faith and credit for timely payment of principal and interest on the bonds.
- 3) Stipulates that the portion of each bond measure for community colleges may be used to fund construction on existing campuses, construction of facilities that may be used by more than one segment of public higher education (intersegmental), the renovation and reconstruction of facilities, site acquisition, the equipping of new, renovated, or reconstructed facilities, which equipment shall have an average useful life of 10 years, and to provide funds for the payment of preconstruction costs, including, but not limited to, preliminary plans and working drawings for facilities of the California Community Colleges (CCC).
- 4) States that the issuance of bonds for community college projects shall only be for the purpose of funding projects authorized by the Legislature in the annual Budget Act.
- 5) States that the 2020 bond measure shall only take effect upon adoption by the voters at the March 3, 2020 statewide primary election.
- 6) States that the 2022 bond measure shall only take effect upon adoption by the voters at the November 8, 2022 statewide general election.
- 7) Requires the CCC Board of Governors, in making annual recommendations for use of the bond funds, to prepare an annual spending plan using the following guidelines to establish priorities among district capital outlay proposals:
  - a) Up to 50 percent of bond proceeds available annually for projects to address the following:
    - i) Life-safety projects. The board is required to define "life-safety" for this purpose.

- ii) Equipment to complete projects that previously received a state apportionment for construction;
  - iii) Projects to address seismic deficiencies; and
  - iv) Infrastructure projects, when failure or loss would otherwise result.
- b) After identifying recommendation pursuant to (a), the remaining available funds shall be recommended for capital outlay allocations:
- i) 50 percent of the remaining funds for projects providing for growth in instructional space;
  - ii) 25 percent of the remaining funds to projects to modernize, renovate, or repair instructional space;
  - iii) 15 percent of remaining funds for projects to promote a complete campus concept;
  - iv) 5 percent of remaining funds for projects providing for growth in instructional support space; and
  - v) 5 percent of remaining funds for projects to modernize, renovate, or repair instructional support space.
- 8) Declares that it is the Legislature's intent to review and consider the spending plan prepared pursuant to (7) in determining CCC capital outlay appropriations from the bonds measures.
- 9) Stipulates that funds expended by a community college district for preliminary plans and working drawings for a project for which the district receives a state allocation may be counted toward the district's local share of funding for that project, and that the district's expenditure for these purposes may take place before the district receives the state allocation for preliminary plans or working drawings.

**EXISTING LAW:**

- 1) Stipulates that the Legislature shall not, in any manner create any debt or debts, liability or liabilities, which shall, singly or in the aggregate with any previous debts or liabilities, exceed \$300,000 unless enactment has been passed by a two-thirds vote of all the members elected to each house of the Legislature and until, at a general election or at a direct primary, it shall have been submitted to the people and shall have received a majority of all the votes cast for and against it at such election. (California Constitution, Article XVI, Section 1.)
- 2) Requires the Governor to annually submit to the Legislature, in conjunction with the Governor's Budget, a proposed five-year infrastructure plan, which among other things, shall include the instructional and support facilities needs of the CCC. (Government Code Sect. 13102.)
- 3) Requires the CCC Chancellor's Office to prepare a five-year capital outlay plan identifying the CCC's statewide needs and priorities. (Education Code (EC) Sect. 67501.)

- 4) The Kindergarten through Community College Public Education Facilities Bond Act of 2016, approved by the voters in November 2016 (Proposition 51), authorized \$9 billion state general obligation bonds for K-12 facilities (\$7 billion) and California Community College (CCC) facilities (\$2 billion). (EC Sect. 101110 et seq.)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

*Purpose.* According to the author, “It is well documented that the conditions of school facilities impact pupil motivation, school climate, teacher effectiveness, and student health and achievement. The California Department of Education estimates that approximately 30% of the state’s K-12 classrooms are at least 50 years old and 10% are 70 years old. In addition to health and safety, schools need to be updated to meet 21st century educational needs and environmental efficiencies.

“Researchers estimate over \$100 billion in K-12 new construction and modernization facilities needs while Community Colleges have a projected \$30 billion need over five years.

“The last state bond, Proposition 51, was approved by voters in the November 2016 election, and provided \$7 billion for K-12 and \$2 billion for Community Colleges facilities. Funds for the modernization and new construction of K-12 facilities are already exhausted. Funds for Community Colleges are almost exhausted.”

AB 48 proposes two bonds to be submitted to voters on the March 2020 and November 2022 statewide ballots. (As of this analysis, the amounts to be proposed in either bond had not been determined.) This is not the first bill to contain two bond proposals. AB 16 (Hertzberg), Chapter 33, Statutes of 2002, placed bonds for K-12 and higher education facilities on both the November 2002 and March 2004 ballots. Both measures were passed by voters. The author states that due to depletion of Proposition 51 funds and in order to enable school districts to continue their facilities plans, it is prudent to establish two bonds.

*CCC Facility Needs.* The 2019-20 Five-Year Capital Outlay Plan for the CCC, as approved by the Board of Governors in September 2018, identifies \$23 billion in facilities needs from 2019-20 through 2023-24. The plan furthermore estimates a 10-year facilities need of \$42.5 billion.

The state has typically issued general obligation bonds to cover a portion of the cost of community college facility projects. From 1998 through 2006, voters approved four bond measure that included a total of \$4 billion for community college facilities. After a ten-year gap, voters approved Proposition 51 in November 2016, which authorizes the state to sell \$2 billion in bonds for community college projects.

The bulk of community college facility costs are covered with locally-approved general obligation bonds. Districts currently must get at least 55 percent of their voters to approve these these local bonds. Since 1998, when the voting threshold for local (K-14) facility bonds was reduced from two-thirds, voters have approved 122 of 142 (86 percent) of local CCC bond measures, which have authorized \$39.1 billion in bonds for 68 of the 72 community college districts.

In the CCC five-year plan, the Chancellor's Office estimates that \$23.2 billion of local bond funds remain uncommitted to fund state supportable projects. (Non-state-supportable projects, such as parking structures, cafeterias, and bookstores are 100 percent funded by local funds.) The Chancellor's Office indicates that local bonds fund over 40 percent of the cost of state-supportable CCC projects – generally instructional and instructional support space and related infrastructure – and further indicates that 53 of 59 projects proposed by the system for state funding in 2019-20 include a local match. Based on this cost sharing arrangement, the five-year plan anticipates a need for \$3.7 billion in state general obligation bond funding every two years.

*Priority-Setting.* Among all the project proposals submitted by districts for state funding, the Chancellor's Office establishes a statewide priority list generally based on the following criteria:

1. Life safety projects, projects to address seismic deficiencies or risks, and infrastructure projects (such as utility systems) at risk of failure.
2. Projects to increase instructional capacity.
3. Projects to modernize instructional space.
4. Projects to complete campus build-outs.
5. Projects that house institutional support services.

Within these categories, projects with a local contribution receive greater consideration. Also, to be approved in the highest-priority, life-safety category under the Chancellor's Office process, a district must (1) have a third party entity identify the facility as an imminent danger to the occupants and (2) submit a project scope that is the least costly option for permanently addressing the problem. A project to address immediate electrical safety issues, for example, could not include renovations related to other building issues.

In its analysis of the Governor's proposed 2019-20 budget for higher education, the Legislative Analyst's Office (LAO) describes a disagreement between the Chancellor's Office and the Department of Finance (DOF) regarding what constitutes a life-safety project. In contrast to the Chancellor's Office approach to such projects, as described above, the administration reviews every project approved by the Chancellor's Office and prioritizes those that appear to be addressing life safety issues, even if life safety is not the primary reason for the project. In contrast, the Chancellor's Office may deem a project a higher priority because it addresses a lack of instructional capacity, even if no life safety issues are involved. Inconsistency in how the two agencies are reviewing projects is resulting in confusion for districts, as their projects are effectively being subjected to two competing standards.

The LAO indicates that the administration's approach, while consistent with that used for evaluating *state* facilities, might not be the right approach within the context of community college facilities. The Analyst notes that "community college districts are the ones directly responsible for any life safety issues related to their facilities. Additionally, the administration's approach can reward districts that have done a poor job maintaining their facilities. For example, if two districts submit requests to modernize buildings that are of the same age, the administration's approach prioritizes the project that has a life safety issue. The life safety issue, however, could be the result of poor district maintenance practices. The Chancellor's Office approach, which requires third-party review and limits the scope of life safety projects, does not create these poor incentives to the same degree."

The LAO recommends that the Legislature direct the administration and the Chancellor's Office to develop one agreed-upon framework for how life safety issues should be considered in the review of community college projects, and that if the administration and Chancellor's Office cannot come to an agreement, that the Legislature codify an approach in statute. According to the LAO, the framework should ensure state funding is available in case of a facility emergency but also have strong incentives for districts to maintain their facilities in good condition.

AB 48 codifies the CCC's current priority-setting methodology, and would apply this methodology to allocations from the two proposed state general obligation bond measures. The bill would have the Chancellor's Office develop a definition of what constitutes a life safety project.

*Amendments.* The amendments, which are reflected in this analysis, are mostly clarifying or conforming. One amendment, however, would allow districts to begin project design (preliminary plans and working drawings) with local funds, prior to the project receiving an appropriation of state funds, and for these district expenditures to count toward the district's local match requirement for that project. This amendment is intended to allow districts to get an earlier start on projects. Of course, a district would be assuming some degree of risk with these "up-front" expenditures for design if, for example, the project is never approved for state funding or the state-approved project is smaller in scope than that the district's design.

*For timing purposes, these amendments will be taken in the Appropriations Committee.*

*Related Legislation.*

AB 13 (Eggman), pending in this committee, places the Higher Education Facilities Bond Act of 2020 on the November 3, 2020 statewide general election. The bill proposes \$2 billion for University of California (UC) facilities, \$2 billion for California State University (CSU) facilities, and \$3 billion for new CSU campuses.

SB 14 (Glazer), pending in the Senate Appropriations Committee, places the Higher Education Facilities Bond Act of 2020 on the March 3, 2020 statewide primary election. The bill proposes \$4 billion each for UC and CSU facilities.

*Prior Legislation.* Several bond measures have been proposed since 2009 to fund higher education facilities. The most recent of these are:

AB 2771 (Eggman, 2018), which proposed a \$7 billion general obligation bond for higher education facilities, to be considered by the voters at the November 2018 ballot, died in the Senate.

SB 1225 (Glazer, 2018), which proposed a \$4 billion general obligation bond measure for UC, CSU and Hastings to be placed on the November 2018 statewide ballot, died in the Assembly.

SB 483 (Glazer and Allen, 2017), a \$2 billion bond for the November 2018 ballot for facilities at UC, CSU, and Hastings, was held on Suspense in Senate Appropriations.

AB 1433 (Gray, 2016), which authorized an unspecified of bonds for the UC, CSU, CCC and Hastings, was held on Suspense in the Assembly Appropriations.

AB 1088 (O'Donnell, 2015), which authorized an unspecified amount of bonds for school districts, county superintendents of schools, county boards of education, charter schools, the CCC, CSU, Hastings, and UC, was held on Suspense in Assembly Appropriations.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Association of California Construction Managers  
California Building Industry Association  
California Federation of Teachers  
California Manufacturers & Technology Association  
California Retired Teachers Association  
California Teachers Association  
Children Now  
Coalition for Adequate School Housing  
Community College Facility Coalition  
County School Facilities Consortium  
Foothill-De Anza Community College District  
Los Angeles County Office of Education  
School Energy Coalition

**Opposition**

None on file.

**Analysis Prepared by:** Chuck Nicol / HIGHER ED. / (916) 319-3960